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Review of the inputs to the substantive preparatory process and the International Conference on Financing for Development

Technical notes

Note by the Secretary-General

Addendum

Technical note No. 1:* Existing proposals for enhanced international cooperation in tax matters

I. Introduction

1. Growing international economic and financial interdependence has increased the cross-border spillover effects of taxation and constrained the capacity of national tax authorities to establish and enforce various tax instruments. Governments are increasingly limited in setting both the forms and rates of tax; at the same time, tax avoidance and tax evasion are on the increase. These developments may make it more difficult for Governments to finance public expenditures and constrain the financing options of the Governments of those countries faced with inflexible spending obligations and limited sources of revenue. Therefore, there is a growing need for improved international cooperation among tax authorities to address these issues. Such a cooperative effort will also have to address constraints to the capacity of tax administrations in developing countries to raise revenue in an effective manner.

2. There are at present several international forums that address certain aspects of international cooperation in taxation from the perspective of their members. The table in the annex to the present note provides an overview of the geographical coverage, scope and work methods of each of these organizations. Some of these forums are global in their reach; others are regional; a few cover a limited range of countries. In some cases, taxation is only one of the issues discussed; in others, the only focus is on taxation. Most are governmental

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organizations, although there are two non-governmental organizations that play a significant role in the tax area. The global and regional organizations tend to focus on both direct and indirect taxes and on domestic and international tax issues. Some are more oriented towards tax administration issues; others cover both tax policy and tax administration. Also, expert groups address issues of taxation in United Nations forums, notably the Ad Hoc Group of Experts on International Cooperation in Tax Matters of the Economic and Social Council, and the expert groups on accounting and other related matters convened by the United Nations Conference on Trade and Development. There is, however, no global intergovernmental forum for the consideration of tax policy and administrative issues and international cooperation in tax matters in all its aspects.

3. Existing proposals for enhanced international cooperation in tax matters presented at intergovernmental forums or other international forums are outlined below in chronological order, with reference to the relevant document in the title. The present note covers proposals on tax cooperation ranging in scope from new organizations or new institutions, including new rules or regulations, to new mechanisms that build on existing organizations and institutions. Excluded from the note are most initiatives of regional organizations that are not relevant to non-members.

II. Existing proposals

A. International tax organization (United Nations, 2001, pp. 9, 27-28, 65-66)

4. The High-level Panel on Financing for Development proposed the consideration of an international tax organization, which could:

(a) Compile statistics, identify trends and problems, present reports, offer technical assistance and provide a forum for the development of international norms for tax policy and administration;

(b) Maintain surveillance of tax developments in the same way that the International Monetary Fund (IMF) maintains surveillance of macroeconomic policies;

(c) Take a lead role in restraining tax competition designed to attract multinationals with excessive and unwise incentives;

(d) Develop procedures for arbitration when frictions develop between countries on tax questions;

(e) Sponsor a mechanism for multilateral sharing of tax information, such as that already in place within the Organisation for Economic Cooperation and Development (OECD), so as to curb the scope for evasion of taxes on investment income earned abroad;

(f) Develop and secure international agreement on a formula for the unitary taxation of multinationals;

(g) Develop, negotiate and operate international arrangements for the taxation of emigrants, enhancing the possibility for countries to tax citizens on worldwide income.

(In this context, see also Tanzi (1996; 1999, pp. 173-186)).

B. Steering group/council of international tax organizations (Commonwealth Association of Tax Administrators and others, 2001)

5. In June 2001, the secretaries general/heads of five organizations proposed, at a meeting held at Montreal, Canada, the creation of a steering group/council of international tax organizations, the membership of which would initially consist of the secretariats of the organizations. The five organizations concerned are: the Commonwealth Association of Tax Administrators, the Inter-American Center of Tax Administrations, the Centre de rencontres et d'études des dirigeants des administrations fiscales, the Intra-European Organisation of Tax Administrations and OECD. The group would be serviced by a small secretariat provided by Canada. Its first meeting will be held at Seville, Spain, in October 2001. The group will also seek to develop links with other regional or international tax organizations. Its primary functions in the short term would be to develop best practice in tax administrations and taxpayer service using, for example, the Forum on Strategic Management Knowledge Exchange (see http://www.FSMKE.org), which OECD is in the process of developing, as well as the coordination of technical assistance work.

C. International organization or forum for cooperation in tax matters or strengthening of the Ad Hoc Group of Experts on International Cooperation in Tax Matters (United Nations, 2000c, para. 142; Disney, 2000)

6. In the report submitted to the Preparatory Committee for the International Conference on Financing for Development at its second substantive session, the Secretary-General recommended the formation of an international organization or forum for cooperation in tax matters, into which the various existing international tax-related efforts would be merged into a single entity. It could provide a global forum for the discussion of, and cooperation in, tax matters, including:

(a) Sharing of national taxation experience;

(b) Development of definitions, standards and norms for tax policy and administration and other aspects of taxation;

(c) Identification of national tax trends and problems;

(d) Tax reporting;

(e) Provision of technical assistance to national tax authorities, in particular those of developing countries and countries in economic transition.

The report also noted less ambitious proposals that have been put forward, including the strengthening of the Ad Hoc Group of Experts on International Cooperation in Tax Matters.

7. The report recommended that the International Conference on Financing for Development mandate a careful in-depth study, undertaken in cooperation with IMF and other relevant international financial institutions, of potential means for enhancing tax-related international cooperation, including mandating a specific negotiating process on international agreements on this subject and the possibility of establishing an international organization or forum for cooperation in tax matters.

8. The creation of an international tax forum under United Nations auspices was also proposed by the International Council on Social Welfare (ICSW) at the financing for development hearings with civil society, on 7 November 2000 (Disney, 2000). Additional functions envisaged for this forum include research and the arbitration of disputes. ICSW also proposed the strengthening of the Economic and Social Council in the area of tax cooperation, including through its existing expert taxation committee and through the convening of a major global conference on taxation and development (Disney, 2000; 2001, pp. 159-167). In particular, ICSW recommended the establishment of a special working group on international cooperation in tax reform, of about 25 members comprising approximately equal representation of the most economically powerful countries, the most populous countries and representatives of other countries chosen on a regional basis.

D. Technical assistance (United Nations, 2000c, paras. 30-33)

9. The report of the Secretary-General to the Preparatory Committee contained several recommendations regarding assistance to countries to improve the management of fiscal resources, enhance tax administration and combat tax evasion. The report specifically refers to assistance provided by developed countries and to South-South cooperation. In effect, these proposals also enhance international cooperation in tax matters. The report recommends that:

(a) International institutions should be ready to assist countries in developing medium-term fiscal frameworks and all donor partners should take that into account in providing assistance to those countries;

(b) Developed countries and international institutions should provide increasing support, especially in terms of resources for technical assistance in capacity-building, to developing countries and those in economic transition that strive to simplify tax laws and to improve the efficiency and effectiveness of tax administration and enhance enforcement through the strengthening of institutional, technical and technological capacities, including the development of a transparent, accountable and corruption-free system;

(c) International institutions should provide assistance to developing countries and countries in economic transition that undertake administrative and legislative measures to combat tax evasion and prevent tax avoidance, particularly to facilitate South-South cooperation.

E. International action pertaining to taxation to promote the mobilization of new and additional resources for social development (United Nations, 2000b, para. 142)

10. At its twenty-fourth special session, the General Assembly adopted proposals for the implementation of the commitments made at the World Summit for Social Development. Initiatives to implement commitment 9 of the World Summit included the promotion, through international action, of the mobilization of new and additional resources for social development, inter alia, by developing appropriate means of international cooperation in tax matters, exploring methods for dividing the liability of multinational corporations to pay taxes on profits among the various jurisdictions in which they operate, exploring ways to combat the use of tax shelters and tax havens that undermine national tax systems, and preventing tax avoidance and promoting treaties for avoiding double taxation.

F. International agreement on a formula to divide corporate income among jurisdictions (United Nations, 2000, p. 5)

11. The document for the Ad Hoc Expert Group Meeting on Strategies for Improving Resource Mobilization in Developing Countries and Countries with Economies in Transition, convened by the United Nations in cooperation with Association de planification fiscale et financière at Montreal, Canada, from 2 to 6 October 2000, recommended an international agreement on the allocation of corporate and other enterprise income among jurisdictions according to an internationally agreed formula that relied as far as possible on objectively verifiable indicators, such as proportions of workforce, wage bill, or capital assets, in various countries. See also the report of the meeting (United Nations, 2001c, para. 16). The General Assembly, in resolution S-24/2, also suggested that such an agreement should be explored (United Nations, 2000b, annex, para. 142). The merits and limitations of various allocation methods are analysed by Mintz (1998).

G. International agreement on uniform rates of source withholding taxes on interest, dividends, royalties and management fees (United Nations, 2000, p. 5; Disney, 2000)

12. The above-mentioned document for the Ad Hoc Expert Group Meeting on Strategies for Improving Resource Mobilization in Developing Countries and Countries with Economies in Transition also recommends an international agreement on a set of uniform rates for withholding taxes on interest, dividends, royalties and management fees, if these payments are to cross inter-jurisdictional borders. These taxes would be collected unilaterally. There might or might not at the same time be conventions providing for the transfer of some of the withholding tax so collected to the relevant country of residence of each taxpayer. See also the report of the meeting (United Nations, 2001c, para. 16). A similar proposal was put forward by the International Council on Social Welfare at the financing for development hearings with civil society, held on 7 November 2000 (Disney, 2000). OECD and United Nations model tax conventions propose maximum withholding rates for taxes on interest and dividends. The merits and limitations of withholding taxes on capital income are analysed by Zee (1998, pp. 587-599).

H. International system of coded identification for all individual and corporate income taxpayers (United Nations, 2000, p. 5)

13. The above-mentioned document for the Ad Hoc Expert Group Meeting on Strategies for Improving Resource Mobilization in Developing Countries and Countries with Economies in Transition further recommended an international system of coded identification for all individual and corporate income taxpayers. The code would refer to the jurisdiction in which the taxpayer resided or was registered, and be extended to record all those from which she, he or it derived income. Knowledge of the identity of the taxpayer attached to each code number would be confined to the tax authorities of the jurisdictions referred to in the code number, but information relating to the taxpayer's income would be shared among them — in certain circumstances automatically, and in other circumstances upon request. See also the report of the meeting (United Nations, 2001c, para. 16). OECD has recommended that countries encourage non-resident recipients of income to disclose their resident country tax identification numbers to the payers of income who in turn will be required to pass the numbers to the tax authorities of the source country (OECD, 1997, 1997a; Perez-Navarro, 1999, pp. 18-21).

I. Global forum on taxation (OECD, 2000b)

14. The Organisation for Economic Cooperation and Development launched, on 28 and 29 June 2000, proposals for a global forum on taxation. The forum provides a framework within which OECD member countries and non-member countries can develop a dialogue on and propose solutions to issues of mutual interest and concern. The forum dialogue has reached at least 70 interested non-member countries in a number of contexts, ranging from high-level meetings to regional technical seminars and covering areas such as the taxation of electronic commerce, exchange of information, tax treaties, transfer pricing and tax administration. Participation is by invitation only. The global forum complements the dialogue between countries members of OECD and other countries with regional forums, such as the Asia-Pacific Economic Cooperation forum, and regional tax organizations.

J. Multilateral agreements on mutual assistance and information exchange (e.g., Council of Europe, 1989; Inter-American Center of Tax Administrations, 1999; ECOFIN, 2000; OECD, 2000; United Nations, 2001a)

15. A number of proposals have been put forward to improve mutual assistance and the exchange of information between tax authorities:

(a) OECD and the Council of Europe have in place the *Convention on Mutual Administrative Assistance in Tax Matters* (Council of Europe, 1989). Oxfam (UK) (2000, p. 18) proposed that the Convention should be further developed to define minimum standards of transparency and disclosure by companies and to develop wider networks of cooperation, extending to developing countries;

(b) The European Union has a similar instrument (European Commission, COM (1998) 295 final; European Commission, COM (2001) 260 final; Council of the European Communities, 1977). The European Union Council of Economics and Finance Ministers proposed a directive on the taxation of income from cross-border savings by individuals, which commits that, by 2010, all 15 countries members of the European Union would be engaging in the automatic exchange of information on savings flows. The directive was endorsed by the European Council (2000) and given substantive content by ECOFIN (2000). The proposal is explicitly dependent on bilateral agreements with non-European Union members;

(c) The Inter-American Center of Tax Administrations in 1999 endorsed a Model Agreement for the Exchange of Information Agreement (Inter-American Center of Tax Administrations, 1999);

(d) The OECD and United Nations model tax conventions are also continuously changed to enhance mutual assistance and the exchange of information among countries;

(e) OECD (2000a) in 2000 issued a report on improving access to banking information, which set out a standard to which all countries should aspire.

16. All of the above-mentioned proposals move in the direction of increasing access to information for tax authorities and putting in place effective mechanisms for the exchange of such information. The International Council on Social Welfare, at the financing for development hearings with civil society held on 7 November 2000, proposed stronger international obligations for the provision of information to, and between, tax authorities (Disney, 2000). Tanzi and Zee (1999, pp. 58-63) contains a comprehensive discussion of bilateral and multilateral agreements, and the merits and limitations of information exchange in general are discussed in Tanzi and Zee (2001).

K. Global Tax Network (World Bank, IMF and OECD, 2001)

17. Discussions are currently taking place between the staff of IMF, the OECD secretariat and the World Bank to launch a global tax network, to be managed jointly by the aforementioned institutions and possibly also the United Nations, as a first step in facilitating a global tax dialogue. A primary responsibility of this network would be to prepare for regular meetings on topics of common interest, to oversee the sharing of information and to identify issues that should be taken up by the sponsoring organizations and regional tax organizations. The proposal contemplates that all countries would be welcome to participate with no preconditions, along with regional tax organizations and regional development banks.

18. Core functions of the network would be:

(a) Discussion of tax matters of common interest;

(b) Sharing of experience;

(c) Identification of best practices;

(d) Maintenance of a widely accessible database on current and prospective technical assistance activities in tax policy and administration.

The final institutional structures of the proposed global dialogue, as well as its role and responsibilities, would emerge over a number of years.

19. One additional feature that has been suggested is that, every three or four years, an intergovernmental body, such as the Economic and Social Council, would review the work programme and progress, thereby helping to shape the future agenda of the network.

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Annex

International organizations providing a forum for intergovernmental discussions on taxation[a]

Organization	*Participating countries*	*Meetings per year*	*Staff working full-time on taxation*[b]	*Main areas of focus*	*Work methods*	*Typical participants*
A. International intergovernmental organizations						
World Trade Organization	142; over 30 applicants	3[c]	0	Tax issues related to trade and investment: primarily indirect taxes	Intergovernmental negotiations	Investment and trade experts
United Nations (Economic and Social Council)	189 (54)	1-3	2 plus consultants	Tax treaties, transfer pricing, financial derivatives, tax havens, e-commerce	Intergovernmental negotiations: models, guidelines, publications	Mainly treaty negotiators
United Nations Conference on Trade and Development	191	1	1/2 man-month plus consultants	Transfer pricing (accounting aspects), foreign direct investment, tax incentives	Intergovernmental negotiations: accounting standards	Experts in accounting/ incentives
International Monetary Fund	183	Varies	47 in 2000 (including consultants)	Tax policy and administration	Bilateral consultations and technical assistance	Economic policy makers and tax administrators
World Bank	183	Varies	About 8 plus consultants	Tax policy and administration	Bilateral demand-driven technical assistance	Tax policy makers and tax administrators
World Customs Organization	151	Up to 10	18	Customs	Intergovernmental negotiations: models, best practices, standard	Customs officials

Organization	*Participating countries*	*Meetings per year*	*Staff working full-time on taxation*[b]	*Main areas of focus*	*Work methods*	*Typical participants*
Organisation for Economic Cooperation and Development	30 member countries plus network of 70 non-member economies	120	30 plus consultants	International and related domestic issues, direct and indirect taxes, tax policy and administration	Intergovernmental negotiations: models, guidelines, best practices	Tax policy makers and tax administrators
Commonwealth Association of Tax Administrators	47	3 (?)	1 plus consultants	Direct tax administration and selected policy issues	Conferences and training	Tax administrators
B. Regional intergovernmental organizations						
Inter-American Center of Tax Administrations	34 (including 4 non-American members and 1 non-American associate member)	6	11 plus consultants	Tax administration, direct and indirect taxation	Conferences, technical assistance, working groups on best practice	Tax administrators
Asia-Pacific Economic Cooperation Forum	21	1	0	Customs and excise	Intergovernmental negotiations. Annual conference	Tax policy makers
European Union	15	30-40	60 plus	Indirect taxes but increasing direct taxes, mainly international	European Union directives, conventions, regulations	Tax administrators and policy makers
Centre de rencontres et d'études des dirigeants des administrations fiscales	27	1	1	Tax administration and selected policy in francophone countries	Conferences and training	Tax administrators

Organization	*Participating countries*	*Meetings per year*	*Staff working full-time on taxation*[b]	*Main areas of focus*	*Work methods*	*Typical participants*
Intra-European Organization of Tax Administrations	15	6	1	Tax administration in economies in transition	Conferences and technical assistance	Tax administrators
C. Selected governmental groups						
Pacific Association of Tax Administrators	4	2	0	Tax administration, domestic and international. Mainly direct taxes	Intergovernmental informal discussions	Tax administrators
Study Group on Asian Tax Administration and Research	12	2	0	Tax administration and selected policy issues	Intergovernmental informal discussions	Tax administrators
Nordic Group	5	3	0	Tax administration and policy. Mainly international	Intergovernmental informal discussions	Tax administrators and policy makers
Caribbean Organization of Tax Administrators	15			Tax administration	Training, research, dissemination of information and technical assistance	Tax administrators and policy makers
D. Non-governmental organizations						
International Bureau of Fiscal Documentation	-	-	40	International and domestic taxation	Research; dissemination of information	Typical non-governmental

Organization	*Participating countries*	*Meetings per year*	*Staff working full-time on taxation*[b]	*Main areas of focus*	*Work methods*	*Typical participants*
International Fiscal Association	-	-	1	International tax issues	Research; dissemination of information	Government and non-government

Note: Numbers provided are on an average basis.

[a] Excludes such organizations as the Inter-American Development Bank and Asian Development Bank, which are primarily engaged in regional technical assistance.

[b] Number of full-time Professional staff working on taxation.

[c] Of subsidiary group.